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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 09/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/385,299

Applicant(s)

MOSLEH ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 30-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-17,30,31 and 34-46 is/are rejected.
- 7) ☒ Claim(s) 3,4,32 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

  
**SAM RIMELL**  
**PRIMARY EXAMINER**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 5, 7, 8, 9, 10, 12, 13, 15, 16, 30, 31, 34, 36, 37, 38, 39, 41, 42, 44 and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Eytchison (U.S. Patent 6,363,434).

Claim 1: FIG. 2 of Eytchison discloses a series of devices such as 210, 212, 222a, and 211a which read as portable access devices. Each of the devices are in communication with a server (214). As seen in FIG. 3, the server in turn contains a resource manager which controls communication lines and bandwidth allocations to the portable access devices by referring to a path database (340; also col. 7, lines 24-25). Therefore, the resource manager identifies communications protocols, such as available communication lines and bandwidth allocations that are associated with the network server by being referenced in a database in the network server. The resource manager then allocates the lines and bandwidth and establishes the communication connection. As seen in FIG. 2, the communication connection is a wireline LAN (also see col. 5, lines 37-40). As described at col. 8, lines 29-32, whenever a communication link cannot established, a failure message is returned to a user application, which reads as the capture of data pertaining to a failed attempt.

Claim 2: The resource manager (320) searches an internal database (path database 340) for communications protocols (lines and bandwidth) and allocates those lines and bandwidth to the portable devices.

Claim 5: The resource manager allocates lines and bandwidth, which configures the portable access device to transmit information to a user using the wireline LAN of FIG. 2. The resource manager only makes the configuration after verifying that the lines and bandwidth are available after checking the path database (340). Communication with the portable access device is initiated after the allocation of lines and bandwidth are made by the resource manager.

Claim 7: A user using a portable access device, such as devices 210, 212, 222a and 211a issues a request to access a server (214). As seen in FIG. 3, the server in turn contains a resource manager which controls communication lines and bandwidth allocations to the portable access devices by referring to a path database. Therefore, the resource manager identifies communications protocols, such as available communications lines and bandwidth allocations that are associated with the network server by being referenced in a database of the network server. The resource manager then allocates lines and bandwidth and establishes the communication connection. As seen in FIG. 2, the communication connection is a wireline LAN (col. 5, lines 37-40).

Claim 8: As described at col. 8, lines 29-32, whenever a communication link cannot be established, a failure message is returned to a user application, which reads as the capture of data pertaining to a failed attempt.

Claim 9: The resource manager (32) searches an internal database (path database 340) and communications protocols (lines and bandwidth) and allocates those lines and bandwidth to the portable devices.

Claim 10: The resource manager allocates lines and bandwidth, which configures the portable access devices to transmit information to a user using the wireline LAN of FIG. 2. The

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resource manager only makes the configuration after verifying that the lines and bandwidth are available after checking the path database (340). Communication with the portable access device is then initiated after allocation of lines and bandwidth by the resource manger.

Claim 12: A user using a portable access device, such as devices 210, 212, 222a and 211a issues a request to access a server (214). As seen in FIG. 3, the server in turn contains a resource manager which controls communications lines and bandwidth allocations to the portable access devices by referring to a path database. Therefore, the resource manager identifies communications protocols, such as available communications lines and bandwidth allocations that are associated with the network server by being referenced in a database of the network server. The resource manager then allocates lines and bandwidth and establishes the communication connection. As seen in FIG. 2, the communication connection is a wireline LAN (col. 5, lines 37-40).

Claim 13: As described at col. 8, lines 29-32, whenever a communication link cannot be established, a failure message is returned to the user application, which reads as the capture of data pertaining to a failed attempt.

Claim 15: The resource manager (32) searches an internal database (path database 340) for communications protocols (lines and bandwidth) and allocates those lines and bandwidth to the portable devices.

Claim 16: The resource manager allocates lines and bandwidth, which configures the portable access devices to transmit information to a user using the wireline LAN of FIG. 2. The resource manager only makes the configuration after verifying that the lines and bandwidth are

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available after checking the path database (340). Communication with the portable access is initiated after the allocation of lines and bandwidth are made by the resource manager.

Claim 30: See remarks for claim 1.

Claim 31: See remarks for claim 2.

Claim 34: See remarks for claim 5.

Claim 36: See remarks for claim 7.

Claim 37: See remarks for claim 8.

Claim 38: See remarks for claim 9.

Claim 39: See remarks for claim 10.

Claim 41: See remarks for claim 12.

Claim 42: See remarks for claim 13.

Claim 44: See remarks for claim 15.

Claim 45: See remarks for claim 16.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 11, 14, 17, 35, 40, 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eytchison in view of Official Notice.

Claim 6: Each of the portable devices of Eytchison (210, 211a, 212 and 222a) are transceivers by reason that they have two-way communication with the server (214). This is schematically illustrated by the bi-directional arrows between the portable devices and the server

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(214) in FIG. 2. Bandwidth and lines can be allocated or refused to the portable devices by sending signals to those devices from the server (214). Within the system of Eytchison, the server can send a first signal indicating a refusal to one device but then send a second signal indicating allocation of lines and bandwidth to a second device. Since the system of Eytchison may communicate with the Internet via a modem (col. 4, lines 65-66) the second device can be a device that connects to the public switched telephone network (PSTN).

Eytchison only differs from the claims in that the portable devices are hardwired to the server as opposed to being connected in a wireless manner. However, examiner takes Official Notice that it is well known in the art to establish data communication links using wireless connections.

It would have been obvious to one of ordinary skill in the art to modify Eytchison to utilize wireless connections on the LAN illustrated in FIG. 2 so as to enhance the convenience of the user by eliminating the need to plug wires into the portable devices.

Claims 11, 14, 17, 35, 40, 43 and 46: See remarks for claim 6.

Claims 3, 4, 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### Remarks

Applicant's arguments have been considered.

Applicant argues that Eytchison does not teach attempting to establish a communication link between a portable access device and a first network because the resource manager not the source device establishes the communication link with the network. This argument is essentially

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moot because the claims do not outline how the link is actually established. In particular, the independent claims only state that a connection exists between the portable device and the server. How that link is established, or the set-up procedure used to establish the link is not discussed within the independent claims.

Applicant argues that Eytchison does not teach transmitting communication protocols to portable access devices. However, in the Eytchison reference, the resource manager establishes a communications link with the portable access device and then transmits information over that link. Any information transmitted to the portable access device which establishes the communications link reads as the transmission of a communications protocol to the portable access device.

Applicant further argues that Examiner's findings taken on Official Notice are improper by reason that they are allegedly not well known and allegedly not capable of instant demonstration. Examiner took Official Notice that the concept of wireless communication was well known in the art at the time of applicant's invention. In essence, applicant is taking the position that wireless communications are unknown in the art and cannot be readily demonstrated, and thus the Examiner cannot rely upon Official Notice to teach its existence. Examiner maintains that wireless communications are very well known in the art and can be readily and instantly demonstrated without extensive discussion. In particular, one need only consider cellular telephones and pagers, which have been in existence for decades, as evidence for the existence of wireless communications.

Applicant further argues that the Examiner does not recite motivation for the combination. Applicant is referred to page 6, last paragraph of the previous office action (and



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repeated herein) where the Examiner explicitly recited the convenience obtained by not having to plug wires into portable devices as motivation for using wireless devices.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell  
Primary Examiner  
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